

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**STEVE SACHS,**

**Plaintiff,**

**V.**

STEVEN SPRAGUE, ET AL,

**Defendant.**

## CIVIL ACTION

**NO. 04-30032-MAP**

## REQUEST FOR ORAL ARGUMENT

**DEFENDANTS' MOTION FOR ENTRY OF A PROTECTIVE ORDER  
TO STAY DISCOVERY PURSUANT TO FED. R. CIV. P. 26(C)**

Defendants Messrs. Sprague, Feeney, Bagalay, Bushnell, Gilder and McConaughy and nominal defendant Wave Systems Corp. (“Defendants”) respectfully move to this Court to grant this Motion for Entry of a Protective Order to Stay Discovery Pursuant to Fed. R. Civ. Pro. 26(c). Specifically, Defendants request that all discovery in the above-captioned case (as consolidated by this Court’s September 3, 2004 Order) be stayed pending resolution of Defendants’ Motion to Dismiss in this action, which will according to this Court’s September 3, 2004 Order be filed on or before December 15, 2004, and until resolution of the contemplated Motion to Dismiss in the related securities litigation, which will according to this Court’s September 3, 2004 Order be filed on or before November 30, 2004. (Once amended the caption in the consolidated securities litigation will be Brumbaugh v. Wave Systems, Civil Action No. 04-30022-MAP, per this Court’s September 3, 2004 Order.) The grounds for the Defendants’ Motion for Entry of a Protective Order are set forth in the accompanying Memorandum of Law.

**WHEREFORE**, the Defendants respectfully request that this Honorable Court enter a protective order staying all discovery until resolution of the Defendants' contemplated motion to dismiss pursuant to Rule 23.1, and until resolution of the contemplated motion to dismiss in the related securities litigation.

**REQUEST FOR ORAL ARGUMENT**

Pursuant to Local Rule 7.1(D), Defendants request that this motion be set down for oral argument.

Respectfully submitted,

**STEVEN SPRAGUE, GERALD T.  
FEENEY, JOHN E. BAGALAY, JR.,  
NOLAN BUSHNELL, GEORGE  
GILDER, JOHN E. McCONNAUGHY,  
JR. AND NOMINAL DEFENDANT  
WAVE SYSTEMS CORP.**

By its attorneys,

/s/ Michael D. Blanchard  
Robert A. Buhlman, BBO #554393  
Eunice E. Lee, BBO #639856  
Michael D. Blanchard, BBO#636860  
BINGHAM McCUTCHEN LLP  
150 Federal Street  
Boston, MA 02110  
(617) 951-8000

Dated: October 5, 2004

**RULE 7.1(a)(2) CERTIFICATION**

I, Michael D. Blanchard, hereby certify that counsel for Defendants conferred with counsel for Plaintiffs in good faith to resolve or narrow the issues presented in this motion, but the parties were unable to reach agreement.

/s/ Michael D. Blanchard  
Michael D. Blanchard

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served electronically and via mail upon the attorney of record for each party on October 5, 2004.

/s/ Michael D. Blanchard

Michael D. Blanchard